May 10, 2007

Indiana Small Loans – Legislative Amendments Effective July 1, 2007
Database Functions

The Indiana General Assembly has concluded the 2007 session. Changes to Chapter 7, Small Loans, of the IUCCC are as outlined in HB 1557. Enclosed with this document is a question & answer document covering these changes and detailing DFI interpretations.

7-104: Small loan maximum principal loan amount increases from $500 to $550. This dollar amount (in all instances) is indexed and will be subject to change on July 1 of each even numbered year, similar to other dollar amount changes in the IUCCC.

7-201: To compute maximum permitted finance charge under this section finance charges on amounts greater than $400 up to $550 are limited to 10% of the amount over $400.

7-401: The number of consecutive loans and the length of the 7-day cooling off period remain the same. The cooling off period will be industry-wide. Examples are:

Example 1:

- Borrower has one open small loan, with lender "A"
- The borrower enters a cooling off period when the 5th consecutive small loan (6th loan in total) from this lender is paid
- No lender may make a small loan to the borrower during this cooling off period.

Example 2:

- Borrower has one small loan, with lender "A"
- The borrower opens with lender "B"
- The borrower enters a cooling off period when the 5th consecutive small loan with lender "A" is paid
- No other lender may make a small loan to the borrower except lender "B"
- Lender "B" may continue to offer consecutive small loans to the borrower until the 7-day cooling off period is reached

The ability for the lender and borrower to enter into a simple interest loan during the 7-day cooling off period has been deleted. This option is replaced with the extended payment plan option (EPP).

The lender shall offer the borrower the option to repay the 3rd consecutive small loan (4th loan in total) and all subsequent consecutive small loans on an extended payment plan. An EPP is not a new loan, but is an extension of an existing loan.

There is a required disclosure to be given to the customer regarding the EPP.

If a borrower uses the EPP, the borrower may not enter into another small loan transaction with any other lender until 7 days after the EPP is paid in full. Examples are:

Example 1:
- Borrower is open with lender "A"
- The borrower enters an EPP during the 3rd, 4th, or 5th consecutive small loan.
- No lender, including lender "A", may make a small loan to the borrower until the EPP is paid and a 7-day cooling off period has expired.

Example 2:
- Borrower is open with lender "A" and is obligated on a consecutive small loan
- The borrower opens with lender "B",
- The borrower enters an EPP during the 3rd, 4th, or 5th consecutive small loan with lender "A",
- No other lender may make a small loan to the borrower except lender "B",
- Lender "B" may continue to offer consecutive small loans to the borrower until the 7-day cooling off period is reached.

7-402: A lender is prohibited from making a small loan to a borrower if the total of:
1. the principal amount and finance charge of the small loan to be issued, plus:
2. any other small loan balances (principal, plus finance charge, plus NSF fee, minus partial payments) that the borrower has outstanding with any lender:

exceeds 20% of the borrower's monthly gross income (MGI).

This change contrasts to the current limit of 15% of MGI, an amount that 2 separate lenders could each impose at the same time. The amount is now a total of 20% industry-wide, even when there are multiple lenders.

7-404: A lender shall not make a small loan that, when combined with the outstanding balance (original principal amount, plus NSF fee, minus partial payments) on another outstanding small loan owed to another lender, exceeds a total of $550, excluding finance charges.

This change increases the maximum combined balance from the face amount (which included finance charge) of the checks to the outstanding amount financed.

(6) If a borrower presents evidence to a lender that a loan has been discharged in bankruptcy, the lender shall cause the record of the borrower's loan to be updated in the database described in subsection (4)(b) to reflect the bankruptcy discharge.

This change reflects current DFI interpretation.

(7) A lender shall cause the record of a borrower's loan to be updated in the database described in subsection (4)(b) to reflect: (a) presentment of the borrower's check for payment; or (b) exercise of the borrower's authorization to debit the borrower's account.

If a check is returned or an authorization is dishonored because of insufficient funds in the borrower's account, the lender shall reenter the record of the loan in the database.

This change reflects current DFI interpretation. **Upon reenter of the record of the loan in the database, the loan record should reflect the same consecutive loan count as before the check was deposited or account debited.**

(8) A lender shall update information in a database described in subsection (4)(b) to reflect partial payments made on an outstanding loan, the record of which is maintained in the database.

This change effects the amount a borrower is eligible to borrow on a second loan if a partial payment is made on a first loan.

(9) If a lender ceases doing business in Indiana, the Director may require one (1) or more operators of databases described in subsection (4)(b) to remove records of the lender's loans from the operator's database.

This change reflects current DFI policy.

(10) The Director may impose a civil penalty not to exceed one hundred dollars ($100) for each violation of: (a) this section; or (b) any rule or policy adopted by the Director to implement this section.

This change adds civil penalty provisions for violations of database issues.

The territorial application of the UCCC has been modified to require out-of-state and Internet lenders to become licensed, and to comply with the Small Loan Act, if they solicit loans from Indiana residents.

A small loan is limited to 20% of the monthly gross income of one borrower, and the loan is recorded on a database under one borrower’s identification number. Any other person (a spouse) with income must qualify independently for a small loan of their own under their own identification number.

Some lenders have the ability to deposit checks and record the payoff date as earlier than the actual transaction date. Back-dated payoff dates should require system override, with corresponding exception reports generated to explain such instances.